

A. INTRODUCTION

The Proposed Project would redevelop 18 acres near the Harlem River within the West Haven neighborhood of the Bronx (see Figure 1-1, Chapter 1, “Project Description”). A portion of the project site is within New York City’s coastal zone boundary as outlined by the New York City Department of City Planning (NYCDCP) (see Figure 12-1). This chapter examines the Proposed Project’s compliance with federal, state, and local coastal zone policies. The New York City Waterfront Revitalization Program Consistency Assessment Form is included in this EIS as Appendix D.

The federal Coastal Zone Management Act (CZMA) of 1972 was enacted to support and protect the distinctive character of the waterfront and to set forth standard policies for reviewing proposed development projects along coastlines. The program responded to city, state, and federal concerns about the deterioration and inappropriate use of the waterfront. The CZMA emphasizes the primacy of state decision-making regarding the coastal zone. In accordance with the CZMA, New York State adopted its own Coastal Management Program (CMP), designed to balance economic development and preservation by promoting waterfront revitalization and water-dependent uses while protecting fish and wildlife, open space and scenic areas, public access to the shoreline, and farmland, and minimizing adverse changes to ecological systems and erosion and flood hazards. The New York State CMP provides for local implementation when a municipality adopts a local waterfront revitalization program, as is the case in New York City. The New York City Waterfront Revitalization Program (WRP) is the City’s principal coastal zone management tool. The WRP was originally adopted in 1982 and approved by the New York State Department of State (NYS DOS) for inclusion in the New York State CMP. The WRP encourages coordination among all levels of government to promote sound waterfront planning and requires consideration of the program’s goals in making land use decisions. NYSDOS administers the CMP at the State level, and the DCP administers WRP in the City. The WRP was revised and approved by the City Council in October 1999. In August 2002, the NYSDOS and federal authorities (e.g., the U.S. Army Corps of Engineers [USACOE] and the U.S. Fish and Wildlife Service [USFWS]) adopted the City’s 10 WRP policies for most of the properties located within its boundaries.

The policies in the City’s WRP are as follows:

- Support and facilitate residential and commercial redevelopment in appropriate coastal zone areas;
- Support water-dependent and industrial uses in New York City coastal areas that are well suited to their continued operation;
- Promote use of New York City’s waterways for commercial and recreational boating and water-dependent transportation centers;

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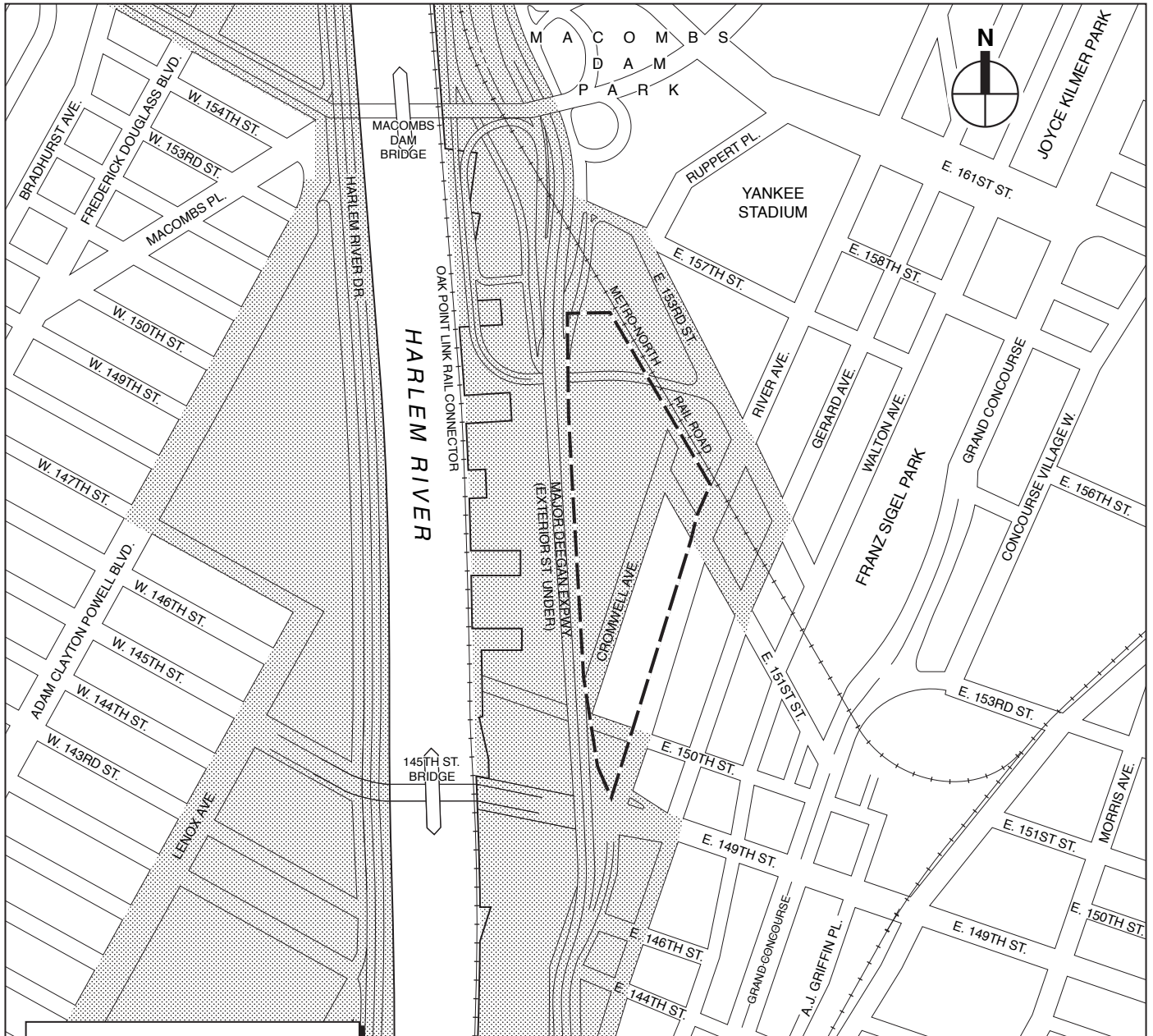
- Protect and restore the quality and function of ecological systems within the New York City coastal area;
- Protect and improve water quality in the New York City coastal area;
- Minimize loss of life, structures, and natural resources caused by flooding and erosion;
- Minimize environmental degradation from solid waste and hazardous substances;
- Provide public access to and along New York City's coastal waters;
- Protect scenic resources that contribute to the visual quality of New York City; and
- Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.


As detailed in the assessment below, the Proposed Project would be consistent with the City's 10 WRP coastal policies, and the WRP's guiding principle of maximizing the benefits derived from economic development, environmental preservation, and public use of the waterfront while minimizing conflicts among these objectives. It would also be consistent with the Bronx Waterfront Plan and its objective to improve pedestrian connections to the Harlem River waterfront.

While the structures proposed as part of the redevelopment would be larger and squarer in form than the existing buildings, the Proposed Project would create landscaped passageways between these structures. These passageways would provide clearer sightlines through the project site, improve pedestrian access to the waterfront and the off-site public open space to be created by the City on the west side of Exterior Street, and improve the visual appearance of the project site. The Bronx House of Detention and buildings of the Bronx Terminal Market (Buildings B and D) have been determined to be eligible for listing on the State and National Registers of Historic Places. The Bronx House of Detention and Building B would be demolished as a result of the Proposed Project. Measures to mitigate for the loss of these historic resources are being developed with and approved by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). One mitigation measure will be the renovation of Building D and its reuse for retail as part of the project. The construction of the off-site open space to be developed by the City with contributions from the project sponsor would presumably require the demolition of Bronx Terminal Market Buildings F and G. The Proposed Project has been accepted into the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP). Preparation and implementation of a Remedial Work Plan (RWP) required as part of the BCP will minimize environmental degradation from hazardous substances that may be identified on the project site during demolition of the existing buildings, infrastructure improvements, and construction of the project elements. Implementation of a stormwater pollution prevention plan (SWPPP) during construction will minimize potential water quality effects associated with the discharge of stormwater. Lastly, the landscaping proposed throughout the project site will provide habitat for terrestrial wildlife.

B. EXISTING CONDITIONS

The 18-acre project site contains three low-scale warehouse buildings of the Bronx Terminal Market (a wholesale food market), paved areas for parking, and the Bronx House of Detention. Two of the Bronx Terminal Market buildings are partially occupied, and the Bronx House of Detention is in reserve status and is currently closed. Some of the market buildings are



- - - - - Project Site Boundary
 Coastal Zone



dilapidated. The Bronx House of Detention and two of the Bronx Terminal Market buildings (Buildings B and D) have been determined eligible for listing on the State and National Registers of Historic Places (see Chapter 7, “Historic Resources”). The Harlem River cannot be viewed from the project site due to the presence of the elevated Major Deegan Expressway and the Bronx Terminal Market buildings on the west side of Exterior Street. There is no landscaping and little vegetation on the project site.

The project site is located in an M2-1 manufacturing district (see Chapter 2, “Land Use, Zoning, and Public Policy”). M2 zoning districts serve as middle ground for light and heavy industrial areas. M1-1, M1-2, M2-1, C4-4, C8-3, R6 and R8 are the predominant zoning districts surrounding the project site.

C. CONSISTENCY OF PROPOSED PROJECT WITH THE WRP POLICIES

Policy 1: Support and facilitate commercial and residential development in areas well-suited to such development.

Policy 1.1: Encourage commercial and residential redevelopment in appropriate coastal zone areas.

The Proposed Project would result in the redevelopment of a site near the Harlem River waterfront that is currently underutilized and contains dilapidated buildings. The proposed development of a major retail center with parking and a hotel would be an appropriate coastal zone development. It would be compatible with the surrounding commercial, industrial, and residential lands uses, and support the economic revitalization of the West Haven neighborhood through new employment opportunities and convenient shopping and dining opportunities for local residents. Therefore, the Proposed Project would be consistent with this policy.

Policy 1.2: Encourage non-industrial development that enlivens the waterfront and attracts the public.

The Proposed Project would improve physical access to the Harlem River waterfront. The landscaped passageways that would be created between the buildings as part of the Proposed Project (see Chapter 8, “Urban Design and Visual Resources”) would provide clearer sightlines through the project site, improve pedestrian access to the waterfront and the off-site public open space to be created by the City on the west side of Exterior Street, and improve the visual appearance of the project site. Therefore, the Proposed Project would be consistent with this policy.

Policy 1.3: Encourage redevelopment in the coastal area where public facilities and infrastructure are adequate or will be developed.

Community facilities and services in and around the project site are sufficient to meet any increased demand that would result from the Proposed Project (see Chapter 4, “Community Facilities”). The New York City Police Department and New York City Fire Department will continue to evaluate the need for personnel and equipment and make any necessary adjustments to adequately serve the area. As part of the Proposed Project, new water lines would be installed both within the City’s right-of-way and the project site to facilitate new service laterals to the retail development and street hydrant system. All new water lines would be designed and built to meet New York City Department of Environmental

Protection (NYCDEP) requirements. New sanitary sewer lines would also be constructed within Exterior Street. As part of the Proposed Project, a NYCDEP storm sewer would be constructed within Exterior Street in accordance with the City's amended drainage plan for the area. New storm sewers would be constructed on the site to collect runoff from buildings, parking areas, Exterior Street, and the Major Deegan Expressway. See Chapter 13, "Infrastructure," for a detailed discussion of infrastructure improvements that are part of the Proposed Project. The Proposed Project, therefore, would be consistent with this policy.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation.

Policy 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

The project site is not located in a Significant Maritime and Industrial Area. Therefore, this policy is not applicable to the Proposed Project.

Policy 2.2: Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas.

The project site is not located on the waterfront. Therefore, this policy is not applicable to the Proposed Project.

Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.

The Proposed Project would not include working waterfront uses. Therefore, this policy is not applicable to the Proposed Project.

Policy 3: Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

Policy 3.1: Support and encourage recreational and commercial boating in New York City's maritime centers.

While the project site is not suitable for the promotion of recreational or commercial boating (see response for Policy 2.2), the Proposed Project would improve public access to the waterfront. Additionally, the Proposed Project would not affect the seasonal ferry operation for Yankee Stadium that lands to the north of the project site. Therefore, the Proposed Project would be consistent with this policy.

Policy 3.2: Minimize conflicts between recreational, commercial, and ocean-going freight vessels.

The Proposed Project would not provide facilities for recreational or commercial vessels. Therefore, this policy is not applicable to the Proposed Project.

Policy 3.3: Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.

The Proposed Project would not provide facilities for commercial or recreational boating. Therefore, this policy is not applicable to the Proposed Project.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

Policy 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas, Recognized Ecological Complexes, and Significant Coastal Fish and Wildlife Habitats.

The project site is not located within a Special Natural Waterfront Area, Recognized Ecological Complex, or Significant Coastal Fish and Wildlife Habitat. Therefore, this policy is not applicable to the Proposed Project.

Policy 4.2: Protect and restore tidal and freshwater wetlands.

The project site is not located on the waterfront. The proposed hotel/retail development would not result in the filling of state-regulated tidal wetlands or waters of the U.S. The proposed construction of a new stormwater outfall to the Harlem River, to serve a drainage area including the project site, would require limited excavation and/or placement of fill material at the shoreline. However, neither this activity nor the construction of the off-site public open space to be developed by the City would adversely impact wetland resources. There are no freshwater wetlands on or adjacent to the project site (see Chapter 10, “Natural Resources/Water Quality”). Therefore, the Proposed Project is consistent with this policy.

Policy 4.3: Protect vulnerable plant, fish, and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.

Requests for information on rare, threatened, or endangered species within the immediate vicinity of the project site were submitted to USFWS, the NYSDEC Natural Heritage Program (NYNHP), and National Marine Fisheries Service (NMFS). The NYNHP and USFWS have determined that there are no known occurrences of threatened or endangered species and there are no areas within the project area that are considered critical habitat. NMFS has determined that shortnose sturgeon may be present within the Harlem River as possible (likely rare) transients. As transients, the shortnose sturgeon would be unlikely to regularly occur near the project area. Given the responses from NYNHP, USFWS, and NMFS, and the current intensity of development on the project site, no significant adverse impacts to sensitive resources would be expected. Therefore, the Proposed Project would be consistent with this policy.

Policy 4.4: Maintain and protect living aquatic resources.

As presented in Chapter 10, “Natural Resources,” the Proposed Project would not be expected to result in adverse impacts to water quality or aquatic biota. The only in-water activity that would occur as part of the Proposed Project is the construction of a new stormwater outfall. During construction, implementation of a Stormwater Pollution Prevention Plan (SWPP) would minimize potential water quality effects associated with the discharge of stormwater. The stormwater runoff is expected to increase from the existing 146 cfs to 149 cfs with the Proposed Project, and with the creation of the off-site public open space to be developed by the City, which is an insignificant increase (see Chapter 13, “Infrastructure”). The creation of the off-site public open space by the City could result in substantial improvements to the water’s edge. Therefore, the Proposed Project would be consistent with this policy.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies.

The majority of the stormwater runoff generated within the project site as a result of the Proposed Project (estimated at approximately 146 cfs) would be collected by a NYCDEP storm sewer to be constructed as part of the Proposed Project. Stormwater runoff collected through this system would be discharged to the Harlem River through a new outfall. Therefore, the Proposed Project would be consistent with this policy.

Policy 5.2: Protect the quality of New York City's waters by managing activities that generate non-point source pollution.

As discussed in the response to Policy 5.1, new storm sewers would be constructed on the project site to collect stormwater runoff for discharge to the NYCDEP storm sewer constructed within Exterior Street as part of the Proposed Project. The storm sewer will be developed and constructed in accordance with the City's amended drainage plan for the area. Therefore, the Proposed Project would be consistent with this policy.

Policy 5.3: Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes or wetlands.

The new stormwater outfall would be constructed along the shoreline of the Harlem River, which is a regulated water of the U.S. and a mapped Tidal Wetland. Water quality changes associated with increases in suspended sediment and re-suspension of contaminated sediments from construction would be minimal and are expected to dissipate shortly after the outfall is installed. The SWPPP implemented during construction would minimize adverse impacts to water quality resulting from stormwater runoff generated within the project site. Therefore, the Proposed Project would be consistent with this policy.

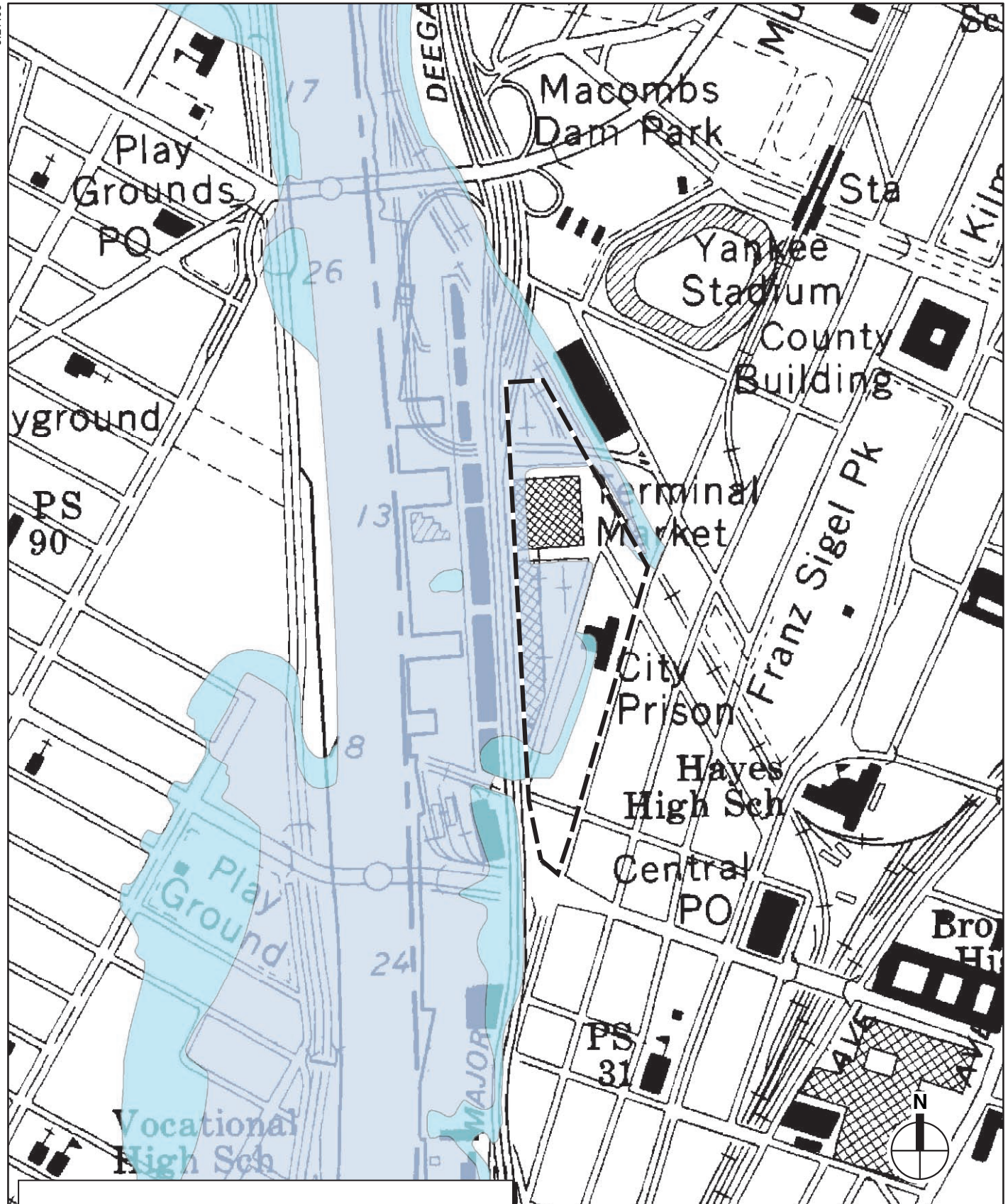
Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.




The project site does not contain any potable groundwater, nor does it contain streams or the source of water for wetlands. At the project site, groundwater is typically found at between eight to 10 feet below the ground surface. Groundwater quantity would not be expected to be impacted as a result of the Proposed Project. Implementation of the RWP would minimize potential impacts to groundwater quality during construction of the Proposed Project. Therefore, the Proposed Project would be consistent with this policy.

Policy 6: Minimize the loss of life, structures, and natural resources caused by flooding and erosion.

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

Much of the project site west of Cromwell Avenue is within the 100-year floodplain (see Figure 12-2). The portions of the project site outside the 100-year floodplain include the location of former Building A, and the area east of Cromwell Avenue occupied by the Bronx House of Detention and Buildings C and D. The placement of demolition fill and other acceptable fill material on the project site to raise the building footprints above the 100-year floodplain will not exacerbate flooding on adjacent properties. Therefore, the Proposed Project would be consistent with this policy.



-  Project Site Boundary
-  Inside 100-Year Floodplain (by detailed methods)
-  Inside 500-Year Floodplain

Floodplain Map
Figure 12-2

Policy 6.2: Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

The Proposed Project would not involve the use of public funding for such measures. Therefore, this policy is not applicable to the Proposed Project.

Policy 6.3: Protect and preserve non-renewable sources of sand for beach nourishment.

There are no non-renewable sources of sand in or near the project site. Therefore, this policy is not applicable to the Proposed Project.

Policy 7: Minimize environmental degradation from solid waste and hazardous substances.

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, and substances hazardous to the environment to protect public health, control pollution, and prevent degradation of coastal ecosystems.

As presented in Chapter 14, “Solid Waste and Sanitation Services,” the Proposed Project would result in a small increase in the volume of solid waste generation at the project site (about five truck loads per week). However, the Proposed Project would also be required to comply with the City’s recycling regulations (source separation of paper, cardboard, metal, and certain plastics) and state solid waste laws that would reduce the solid waste stream. Solid waste and separated materials resulting from the Proposed Project would be collected and transported from the project site by licensed private carters for disposal at out-of-City locations, as is the practice for managing solid waste currently being generated within the project site.

The project sponsor and NYSDEC have entered into a Brownfield Cleanup Agreement (BCA) for the project site. Preparation and implementation of a RWP required as part of the BCA will minimize environmental degradation from hazardous substances that may be identified on the project site. Any toxic or hazardous substances encountered during construction or remediation activities associated with the Proposed Project would be handled in accordance with NYCDEP, NYSDEC, Occupational Safety and Health Administration (OSHA), and United States Environmental Protection Agency (USEPA) requirements. Chapter 11, “Hazardous Materials,” discusses the potential for hazardous materials within the project site and describes measures to be implemented during construction and operation of the Proposed Project to minimize potential environmental impacts. It is assumed that the off-site area to be developed by the City as a public open space would be remediated as part of that development. Therefore, the Proposed Project would be consistent with this policy.

Policy 7.2: Prevent and remediate discharge of petroleum products.

Petroleum products encountered during construction activities associated with the Proposed Project would be managed and mitigated according to the RWP and pertinent NYCDEP, NYSDEC, OSHA, and EPA requirements. Any petroleum-contaminated soil found on the project site will be removed pursuant to applicable regulations, with the exception of limited areas of contamination beneath former Building A and existing Building D. Exposure to petroleum or associated soil vapors from these areas would be prevented by the existence of building foundations and the use of vapor barriers and/or sub slab ventilation systems. Storage and handling of petroleum products would follow applicable regulations. See Chapter 11, “Hazardous Materials,” for a detailed discussion of petroleum products management. Therefore, the Proposed Project would be consistent with this policy.

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Policy 7.3: Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

See the response to Policy 7.1, above.

Policy 8: Provide public access to and along New York City's coastal waters.

Policy 8.1: Preserve, protect and maintain existing physical, visual, and recreational access to the waterfront.

As presented in Policy 1.2, the Proposed Project would improve physical access to the Harlem River waterfront. The landscaped passageways that would be created between the buildings would improve pedestrian access to the waterfront and the off-site public open space to be created by the City on the west side of Exterior Street. Therefore, the Proposed Project would be consistent with this policy.

Policy 8.2: Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

See the responses to Policies 1.2 and 8.1, above.

Policy 8.3: Provide visual access to coastal lands, waters, and open space where physically practical.

As presented in Policies 1.2 and 8.1, the Proposed Project would improve physical access to the Harlem River. The landscaped passageways that would be created between the buildings would provide clearer sightlines through the project site, improve pedestrian access to the waterfront and the off-site public open space to be created by the City on the west side of Exterior Street, and improve the visual appearance of the project site. Therefore, the Proposed Project would be consistent with this policy.

Policy 8.4: Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

The Proposed Project does not include the development of waterfront open space. However, it is anticipated that the City, with contributions from the project sponsor, would develop a portion of the Bronx Terminal Market area west of Exterior Street with a 2-acre public open space. This new off-site open space would facilitate access to the Harlem River.

Policy 8.5: Preserve the public interest in and use of lands and waters held in public trust by the State and City.

The site of the Proposed Project would not adversely impact any lands held in public trust by the State or City. Therefore, the Proposed Project would be consistent with this policy.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

The visual character of the Harlem River waterfront consists of an urban landscape with manufacturing, industrial, and commercial buildings, and paved surfaces. As discussed in Chapter 8, "Urban Design and Visual Resources," the Proposed Project would enhance the project site by replacing the existing vacant or underutilized structures that have a neglected quality with buildings that have a more modern character that would complement the

character of the surrounding areas. The landscaped passageways would provide clearer sightlines through the project site, improve pedestrian access to the waterfront and the public open space to be created by the City on the west side of Exterior Street, and improve the visual appearance of the project site. Therefore, the Proposed Project would be consistent with this policy.

Policy 9.2: Protect scenic values associated with natural resources.

Natural resources are limited within the project site. The landscaping proposed throughout the project site will provide habitat for terrestrial wildlife. Therefore, the Proposed Project would be consistent with this policy.

Policy 10: Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.

Policy 10.1: Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

The Bronx House of Detention and two of the Bronx Terminal Market buildings on the project site (Buildings B and D) have been determined to be eligible for listing on the State and National Registers of Historic Places (see Chapter 7, “Historic Resources”). The Bronx House of Detention and Building B would be demolished as a result of the Proposed Project. Measures to mitigate for the loss of these historic resources are being developed with OPRHP. One mitigation measure will be the renovation of Building D and its reuse for retail as part of the project. The construction of the off-site open space to be developed by the City with contributions from the project sponsor would presumably require the demolition of Bronx Terminal Market Buildings F and G. Therefore, the Proposed Project would be consistent with this policy.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

At the request of OPRHP, a Phase IA Archaeological Assessment was prepared for the project site in October 2004. The Phase IA assessment concluded that although some areas within the northern portion of the project site contained the potential for precontact archaeological resources to be located beneath a layer of peat found under fill deposits and river mud, the excavation required for the Proposed Project would not reach the peat layer or below the peat layer, except for shafts for building pilings. Due to the depth of the potential precontact resources and the difficulty in accessing the potentially sensitive strata, which are well below the water table, no archaeological field investigations were recommended for precontact resources. Archaeological field investigations or monitoring for the recovery of precontact resources would be considered if future specifications for the proposed hotel indicate that deep excavation would be necessary. Historic-period archaeological sensitivity for the project site is low, and no archeological field investigations are recommended for historic-period resources. Therefore, the Proposed Project would be consistent with this policy. *